

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re Juniper Networks, Inc. Securities
Litigation

NO. C 06-04327 JW
NO. C 08-00246 JW

**ORDER DENYING DEFENDANTS'
MOTION TO CONSOLIDATE CASES;
VACATING CASE MANAGEMENT
CONFERENCES**

Presently before the Court is Defendants' Motion to Consolidate Related Cases. (hereafter, "Motion," Docket Item No. 144.) Defendants seek to consolidate In re Juniper Networks, Inc. Securities Litigation, Case No. C 06-04327 JW, with The New York City Employees' Retirement System v. Lisa Berry, Case No. C 08-0246 JW. Plaintiffs in both actions have filed timely responses to Defendants' motion. (See Docket Item No. 146 in C 06-04327; Docket Item No. 39 in C 08-0246.)

Defendants contend that these cases should be consolidated because they involve common questions of law and fact. See Fed. R. Civ. P. 42(a). Plaintiffs collectively contend that Defendants' motion is merely a tactical move to invoke a global stay of the Juniper action.

The Court finds that consolidation is inappropriate at this time. Consolidation of these actions would result in an automatic stay of discovery under the Private Securities Litigation Reform Act,¹ because Defendant in the Berry action has filed a Motion to Dismiss. Given that the two

¹ 15 U.S.C. § 78u-4(b)(3)(B).

1 actions were filed well over one year apart, and that Plaintiffs in the Juniper action have already
2 overcome a Motion to Dismiss, discovery in the Juniper action should proceed. Although
3 Defendants' contention that the two actions should be consolidated is not without merit, the Court
4 finds that consideration of this issue will be more appropriate following resolution of the Motion to
5 Dismiss in the related Berry action. To consolidate these actions now would be unduly prejudicial
6 to Plaintiffs, who are ready to commence discovery in the Juniper action, having survived a Motion
7 to Dismiss in March, 2008. (See Docket Item No. 133.)


8 Accordingly, the Court DENIES Defendants' Motion to Consolidate without prejudice,
9 giving Defendants' leave to renew this Motion pending resolution of the Motion to Dismiss in the
10 Berry action.

11 In light of this Order, the Court VACATES the Case Management Conferences presently
12 scheduled for October 6, 2008 for both cases.

13 With respect to the Juniper action, the Court refers the parties to the assigned Magistrate
14 Judge, Judge Trumbull, to meet and confer and to develop a good faith discovery plan. The parties
15 shall contact Judge Trumbull's Chambers within ten (10) days from the date of this Order to
16 schedule their conference. Within ten (10) days following the parties' conference with Judge
17 Trumbull, the parties shall file a Stipulated Discovery Plan for the Court's approval, including a
18 proposed date for the close of all discovery.

19 With respect to the Berry action, since Defendant has filed and noticed her Motion to
20 Dismiss for January 12, 2009, the Court will set a new conference date in its Order addressing that
21 motion.

22
23 Dated: October 1, 2008



JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: October 1, 2008

Richard W. Wieking, Clerk

By: /s/ JW Chambers
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Courtroom Deputy